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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,669	02/20/2004	Michael Tiegelkamp	Q79781	5527

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EXAMINER
PHAM, THOMAS K

ART UNIT	PAPER NUMBER
2121	

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09/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

		Application No.	Applicant(s)
Office Action Summary		10/781,669	TIEGELKAMP, MICHAEL
		Examiner	Art Unit	
		Thomas K. Pham	2121	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>09 July 2007</u>.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-16</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-16</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

Response to amendment

1.   This is in response to the amendment filed 07/13/2007.

2.   New claims 15-16 have been entered.

3.   Applicant's argument, with respect to the new claims 15-16 and the new issues of claims

1, 6, and 9, necessitated the new ground(s) of rejection presented in this office action.

Quotations of U.S. Code Title 35

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim Rejections - 35 USC § 102

6.   Claims 1-15 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 7,257,523 ("Nixon").

Regarding claim 1

Nixon teaches "a method for configuring modules in a data processing system, for controlling a technical plant, comprising: utilizing decentralized and centralized hardware modules that are networked with one another to provide a stored program control of plant functions" (see FIG. 1 and col. 4 lines 51-63, "controllers 12", "field devices 15"), wherein the decentralized, plant-side modules each have a respective dedicated configuration module (see col. 4 line 63 to col. 5 line 20 and col. 5 lines 21-30, "controllers 12 and field devices 15 each include a respective dedicated control modules 24 for performing configuration and controller application 23 for execution"); and for one of the plant functions to be controlled, at least one of configuring and parameterizing the plant-side modules with the respective dedicated configuration modules (see col. 5 lines 31-44, "host workstation 18 communicates any changes of the process control configuration to the control modules 24 for one of the controllers 12 and/or field devices 15 to be controlled").

Regarding claim 6

Nixon teaches "a component structured to configure a module in a data processing system, for controlling a technical plant, in which system decentralized and centralized hardware modules are networked with one another to provide a stored program control of plant functions" (see FIG. 1 and col. 4 lines 51-63, "controllers 12", "field devices 15"), wherein the decentralized, plant-side modules each have a respective dedicated configuration module (see col. 4 line 63 to col. 5 line 20 and col. 5 lines 21-30, "controllers 12 and field devices 15 each include a respective

dedicated control modules 24 for performing configuration and controller application 23 for

execution"), comprising: hardware configuration software with which at least one of the plant-

side hardware modules corresponding to the component is at least configured or parameterized

(see col. 5 lines 31-44, "host workstation 18 communicates any changes of the process control

configuration to the control modules 24 for one of the controllers 12 and/or field devices 15 to be

controlled").

Regarding claim 9

Nixon teaches "a circuit arrangement for configuring a module in a data processing system, for

controlling a technical plant, in which system decentralized and centralized hardware modules

are networked with one another to provide a stored program control of plant functions (see FIG.

1 and col. 4 lines 51-63, "controllers 12", "field devices 15"), wherein the decentralized, plant-

side modules each comprise a configuration module (see col. 4 line 63 to col. 5 line 20 and col. 5

lines 21-30, "controllers 12 and field devices 15 each include a respective dedicated control

modules 24 for performing configuration and controller application 23 for execution"), and

wherein the decentralized, plant-side modules each comprise a microprocessor and memory

components for configuring the respective plant-side module (see col. 5 lines 31-44, "host

workstation 18 communicates any changes of the process control configuration to the control

modules 24 for one of the controllers 12 and/or field devices 15 to be controlled").

Regarding claim 2

Nixon teaches wherein the control of the technical plant comprises an open-loop control (see

FIG. 1).

Regarding claim 3

Nixon teaches wherein the control of the technical plant comprises a closed-loop control (see FIG. 2).

Regarding claim 4

Nixon teaches wherein the networked modules exchange at least one of data and program parts via at least one of an internal and an external network, to support the configuration (see col. 5 lines 19-44).

Regarding claim 5

Nixon teaches supporting the configuration of the plant-side modules using a programming device equipped with a configuration module that is essentially identical to at least one of the configuration modules of the plant-side modules (see FIG. 1 "controllers 12").

Regarding claim 7

Nixon teaches wherein the component comprises a software component (see col. 5 lines 21-30).

Regarding claim 8

Nixon teaches wherein the component comprises a firmware component (see col. 5 lines 21-30).

Regarding claim 10

Nixon teaches the invention including a standardized network connection for interconnecting the respective plant-side modules with one another (see FIG. 1); and a further standardized network connection with a software component configured as a browser for connecting the respective plant-side modules to an Internet (see FIG. 1).

Regarding claim 11

Nixon teaches wherein the dedicated configuration module of each of the decentralized, plant-side modules is decoupled from the other dedicated configuration modules of the decentralized, plant-side modules and wherein the decentralized, plant-side modules are configured independently of the other decentralized, plant-side modules (see FIG. 1 and col. 5 lines 21-44).

Regarding claim 12

Nixon teaches wherein the dedicated configuration module of the respective decentralized, plant-side module is separately and independently updated and wherein the other plant-side modules are not involved during the updating (see col. 4 lines 51-63).

Regarding claim 13

Nixon teaches wherein the dedicated configuration module is stored in the respective, decentralized, plant-side module and wherein the dedicated configuration module is associated only with the respective, decentralized, plant-side module (see FIG. 1 "control modules 24").

Regarding claim 14

Nixon teaches wherein the respective, decentralized, plant-side module is manufactured with the dedicated configuration module being stored therein (see col. 5 lines 1-7).

Regarding claim 15

Nixon teaches wherein the decentralized and centralized hardware modules are in the technical plant and wherein each of the decentralized and centralized hardware modules execute a function of a technical process executed in the technical plant (see col. 5 lines 21-30).

Claim Rejections - 35 USC § 103

7.   Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No.

7,257,523 ("Nixon") in view of "Simatic S7 – Configuring Hardware and Communication

Connections STEP 7 V5.0 Manual", March 1999, pages 1-1 to 1-10 (hereinafter Simatic S7)

Regarding claim 16

Nixon does not specifically teach the decentralized and centralized hardware modules are within

STEP 7 language. However, Simatic S7 discloses the configuring of automation hardware

modules within STEP 7 language. The claim would have been obvious is that "a person of

ordinary skill has good reason to pursue the known options within his or her technical grasp. If

this leads to the anticipated success, it is likely the product not of innovation but ordinary skill

and common sense." It would have been obvious to one of ordinary skill in the art to include the

hardware modules within STEP 7 language because the STEP 7 is a language that is well known

at the time of the invention in the automation control industry.

Response to Arguments

The claims and only the claims form the metes and bounds of the invention. "Office

personnel are to give claims their broadest reasonable interpretation in light of the supporting

disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir 1997).

Limitations appearing in the specification but not recited in the claim are not read into the claim.

In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ541, 550-551 (CCPA 1969)" (MPEP p2100-8, c

2, I 45-48; p 2100-9, c 1, I 1-4). The Examiner has full latitude to interpret each claim in the

broadest reasonable sense. The Examiner will reference prior art using terminology familiar to

one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning. In this case, the limitations as claimed are broad enough that the prior art of record is sufficient to read into the claims.

Conclusion

8.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.
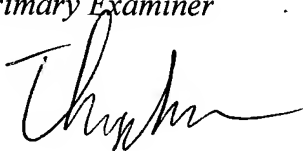
Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner *Thomas Pham*; whose telephone number is (571) 272-3689, Monday - Friday from 7:30 AM - 4:00 PM EST or contact Supervisor *Mr. Anthony Knight* at (571) 272-3687.

Any response to this office action should be mailed to: **Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.** Responses may also be faxed to the **official fax number (571) 273-8300.**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thomas Pham
Primary Examiner

September 14, 2007